

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

RHONDA BREAUX,

Case No. 2:23-cv-01365

Plaintiff,

v.

JUDGE JAMES CAIN

NOVO NORDISK A/S, NOVO NORDISK
NORTH AMERICA OPERATIONS A/S,
NOVO NORDISK US HOLDINGS INC.,
NOVO NORDISK US COMMERCIAL
HOLDINGS INC., NOVO NORDISK
INC., NOVO NORDISK RESEARCH
CENTER SEATTLE, INC., and NOVO
NORDISK PHARMACEUTICAL
INDUSTRIES LP,

MAGISTRATE JUDGE KAY

Defendants.

PROPOSED JOINT DISCOVERY PLAN AND RULE 26(f) REPORT

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Plaintiff RHONDA BREAUX ("Plaintiff") and Defendants Novo Nordisk US Holdings Inc.; Novo Nordisk US Commercial Holdings Inc.; Novo Nordisk Inc.; Novo Nordisk Research Center Seattle Inc.; Novo Nordisk Pharmaceutical Industries LP (the "Novo Nordisk Defendants" or "Defendants") (collectively the "Parties") submit this Joint Discovery Plan and Rule 26(f) Report in advance of the Federal Rule of Civil Procedure Rule 16(b) Scheduling Conference to be held by teleconference on November 7, 2023, at 10:30 am.

1. Type of Trial (Jury/Bench): Jury

2. Participants:

Counsel for Plaintiff:

Michael K. Cox
Somer G. Brown
Cox, Cox, Filo, Camel, Wilson & Brown, LLC

723 Broad Street
Lake Charles LA 70601
Phone: 337-436-6611
Fax: 337-436-9541
Email: mike@coxatty.com
Email: somer@coxatty.com

Counsel for Defendants Novo Nordisk US Holdings Inc.; Novo Nordisk US Commercial Holdings Inc.; Novo Nordisk Inc.; Novo Nordisk Research Center Seattle Inc.; Novo Nordisk Pharmaceutical Industries LP:

Diana Cole Surprenant
E. Paige Sensenbrenner
Adams & Reese
701 Poydras St Ste 4500
New Orleans, LA 70139
Tel: 504-585-0202
Email: diana.surprenant@arlaw.com
Email: paige.sensenbrenner@arlaw.com

Loren H. Brown (*pro hac vice*)
DLA Piper (US) LLP
1251 Ave. of the Americas 45th Fl.
New York, NY 10020-1104
Tel: 212-335-4846
Email: loren.brown@us.dlapiper.com

3. Affirmation Regarding Initial Disclosures: Plaintiff has served her initial disclosures pursuant to FRCP 26(a)(1). Defendants propose serving initial disclosures thirty (30) days after they have filed an Answer.

4. Joinder of Parties: Pending discovery, the Plaintiff does not anticipate the joinder of additional parties.

5. Jurisdiction Basis: This action was filed in federal court on September 29, 2023, under federal diversity jurisdiction pursuant to 28 U.S.C. § 1332.

6. Brief Description of Claims: Plaintiff alleges inadequate warning under La. Rev. Stat. 9:2800.57 against all Defendants as a result of Defendants' alleged failure to warn of the risks of severe gastrointestinal events including gastroparesis and the severity of these side effects on the Ozempic, and Defendants' continued marketing, distribution, and/or sale of Ozempic to consumers without adequate warnings, and failed to ensure that any changes in the label, including Warnings, were expeditiously communicated to doctors and consumers, including the Plaintiff. Various Plaintiffs' physicians were unaware of these risks as demonstrated by the drugs not being withdrawn from the Plaintiff despite ongoing complaints reflective of these injuries.

Plaintiff also alleged breach of express warranty under La. Rev. Stat. 9:2800.58 against all Defendants as a result of Defendants allegedly expressly warranting to Plaintiff and her physicians that Ozempic was safe despite knowing that the product was unreasonably dangerous.

Plaintiff seeks compensatory damages, punitive and/or exemplary damages, the costs of these proceedings, and such other and further relief as this Court deems just and proper as to all Defendants.

7. Brief Statement of Response: Defendants disagree with Plaintiff's allegations and intend to move to dismiss the Complaint on November 14, 2023, based on both law and fact.

8. Anticipated Amendments to Pleadings: No amendments are currently expected.

9. Anticipated Expert Witnesses: The Parties agree that it is premature to identify anticipated expert witnesses and respectfully request that the Parties be permitted to meet and confer and submit a proposed Scheduling Order.

10. Discovery Plan: As indicated in paragraph 9 above, the parties respectfully request that they be permitted to meet and confer on a Scheduling Order. The Parties agree that it is premature to identify limitations on the number of depositions to be taken, the timing of these depositions, or the number of discovery requests that may be propounded by each party and respectfully request that they be permitted to meet and confer on these topics.

11. Electronically Stored Information (ESI): The Parties respectfully request that they be permitted to meet and confer on a proposed schedule.**12. Privileged or Protected Information:** The Parties respectfully request that they be permitted to meet and confer on a proposed schedule.

13. Protective Order and Preservation Order: The Parties respectfully request that they be permitted to meet and confer on this topic.

14. Stipulations: The Parties will meet and confer when appropriate to identify any matters to which the Parties can stipulate.

15. Major Issues of Fact and Law in Dispute: The Parties agree that it is premature to identify all the major issues of fact and law in dispute. However, all claims and defenses are likely in dispute.

16. Related Case Information: The Parties are aware of another lawsuit involving similar allegations in this jurisdiction and in the Eastern District of Pennsylvania.

17. Alternative Dispute Resolution (ADR): The Plaintiff is willing to discuss resolution. The Defendants' position is that such discussions are premature.

18. Consent Trials: The Parties are aware of the right to consent to a trial by a Magistrate Judge pursuant to 28 U.S.C. § 636(c) and will meet and confer at an appropriate time to determine if the Parties consent.

19. Handicap Provisions: The Parties agree it is premature to determine whether any party, witness, or trial participant will require handicap provisions.

WE HEREBY CERTIFY THAT THE FOREGOING IS ACCURATE AND COMPLETE.

/s/ Michael K. Cox

Michael K. Cox
Somer G. Brown
Cox, Cox, Filo, Camel, Wilson & Brown, LLC
723 Broad Street
Lake Charles LA 70601
Phone: 337-436-6611
Fax: 337-436-9541

/s/ Diana Cole Surprenant

Diana Cole Surprenant
E. Paige Sensenbrenner
Adams & Reese
701 Poydras St Ste 4500
New Orleans, LA 70139
Tel: 504-585-0202

/s/ Loren H. Brown

Loren H. Brown (*pro hac vice*)
DLA Piper (US) LLP
1251 Ave. of the Americas 45th Fl.
New York, NY 10020-1104
Tel: 212-335-4846